

Pandora's Box Revisited: Legislative Leaders Allowing Special Provisions to Creep Back into Budget Bill

One area in which the speaker of the House and the president pro tempore of the Senate exercise key leadership roles is in the shaping of the state budget bill. And an opportunity exists for current leaders to curb the practice of inserting special provisions in budget bills that change policies unrelated to the budget.

The North Carolina Center for Public Policy Research made its case against the legislature using special provisions in budget bills to change policies unrelated to the budget in a June 1986 report titled *Special Provisions in Budget Bills: A Pandora's Box for North Carolina Citizens*.¹ Abuse of special provisions peaked at 108 in the 1985 long session, then receded in the wake of the Center's report and updates in March 1987 and March 1988. But now the lid has slipped off Pandora's Box again.

The Center counted 89 inappropriate special provisions in the legislature's 1993 budget bill—the second highest total since 1981 and all the more alarming because it followed several years of improvement. "I offer praise to the General Assembly for the progress they made in the late 1980s and early 1990s," says Center Executive Director Ran Coble, the initial report's author. "But like an alcoholic, they've gone back to the bottle."

The Center—in its 1986 report—defined special provisions as portions of budget bills which are used in any of the following *inappropriate* ways: (1) to amend, repeal, or otherwise change any existing law other than the Executive Budget Act; (2) to establish new agency programs or to alter the powers and duties of existing programs; (3) to establish new boards, commissions, and councils or to alter existing boards' powers; (4) to grant special tax breaks or otherwise change the tax laws; or, (5) to authorize new interim studies by the General Assembly or other groups which are not included in the omnibus bill listing studies to be

conducted between legislative sessions.

The Center recommends that the legislature stop using the budget bill to: (1) create new programs; (2) create new boards and commissions; (3) establish legislative study commissions outside the omnibus bill that authorizes most studies; or, (4) amend statutes that don't relate to the Executive Budget Act. These, the Center argued, should be handled in separate bills so that each proposal gets debated on its own merits and is not hidden in what is usually a 200-page budget bill.

The Center says both the speaker of the House and the president pro tempore of the Senate have the ability to control use of special provisions in the budget bill through their authority over procedure in their respective chambers. House Speaker Dan Blue believes that despite the increase in number of special provisions, procedural reforms he has implemented have resulted in fewer surprises in the budget bill for House members.

Blue says that virtually all of the provisions in the 1993 budget bill either were reviewed by a substantive House committee in addition to the Appropriations Committee or pertained to how state funds would be spent. "We have come probably 90 percent along the way of not having special provisions pop up and the members not having a chance to debate them," says Blue. "And if it does happen, it's just an oversight."

The Center's Coble, however, says the Center found a large number of provisions in the 1993 bill that don't pertain to the budget. "The Center's position is that all special provisions should be put in separate bills and debated on their merits, but instead they were submerged inside a 250-page 1993 budget bill," says Coble.

The following are among the 89 special provisions the Center identified in the 1993–94 budget bill (S.B. 27, Chapter 321 of the 1993 Session Laws):

them go off on their own. Now he has to work harder to maintain his majority."

Conclusion

Thirty years ago, speakers didn't have speech writers and research assistants. Government was less a part of the average North Carolinian's life, and it was the speaker's job, primarily, to carry forth a package of bills written by the governor and to assure that they got a fair hearing in the House. After that, he could pack up and go home and maybe later take a job as an appellate judge or campaign for higher office. But those speakers also didn't have to deal with the problems created by a legislative staff of 150, nearly 500 lobbyists, and a minority party that was within striking distance of turning him into a minority leader.

The raw power of speakers past has been blunted somewhat by increased minority party presence and the trend toward a more open, consensus-building style of governing. But the

"He's more answerable to his own people, and he has to work harder to see they're satisfied."

—BETSY COCHRANE (R-DAVIE)

contemporary speaker has benefitted from a number of developments that would appear to leave the speaker's office more powerful than ever. Consider these additional tools at the disposal of the contemporary speaker: (1) a larger personal research staff and a vastly expanded legislative staff that enable the development of an independent agenda; (2) full-time presence in Raleigh, enabling closer monitoring of state government; (3) ability to seek multiple terms of office; (4) expanded appointment powers to executive branch boards and commissions; and (5) removal of the most significant legislative powers of the lieutenant governor.

These powers are in *addition* to the considerable tools the speaker's office already had at its disposal, although the speaker's grip on these tools has been loosened somewhat by developments such

(1) *Examples of statutory amendments unrelated to budget bill:*

- transfers of the Marine Affairs Division (sec. 28) and of housing programs (sec. 305) to other state agencies;
- repeal of certain teacher recruitment statutes (sec. 128);
- amended laws affecting the oyster management program (sec. 263);
- amended laws on school violence (sec. 139), and;
- enacted a moratorium on granting any permit for a hazardous waste incinerator (sec. 268).

(2) *Examples of new programs created:*

- Principal Fellows Program (sec. 85);
- new judicial district (secs. 200.4-.6), and;
- Adolescent Pregnancy Prevention Projects (sec. 276).

(3) *Examples of new boards or commissions created:*

- Commission on School Technology (sec. 135);
- regional economic development commissions in the west, northeast, and south-east (secs. 309-309.2).

(4) *Examples of new studies not in the omnibus study bill*

- driver education study (sec. 144.3);
- Coastal Area Management Act study (sec. 264), and;

"It's not that these are all bad ideas, but they should be discussed in separate bills and debated on their merits," says Coble.

—Mike McLaughlin

FOOTNOTE

¹ The Center's research and recommendations are outlined in Ran Coble, *Special Provisions in Budget Bills: A Pandora's Box for North Carolina Citizens*, North Carolina Center for Public Policy Research, June 1986, pp. 28-29. See also: "N.C. Center says 1986 Legislature Continued Abuse of Special Provisions in Budget Bills," a March 2, 1987 news release issued by the Center; and Art Eisenstadt, "The Legislative Rule Reforms of 1987—of Paper Tigers and Will-Power," *North Carolina Insight*, Vol. 10, Nos. 2-3 (March 1988), pp. 121-126, for updates on this topic.